

TITLE 5. COMMUNITY AFFAIRS

CHAPTER 61.

ADDRESS CONFIDENTIALITY PROGRAM

N.J.A.C. 5:61 (2014)

SUBCHAPTER 1. PURPOSE AND SCOPE

N.J.A.C. 5:61-1.1 (2014)

§ 5:61-1.1 Purpose and scope

(a) The purpose of this program is to establish uniform Statewide procedures for maintaining the confidentiality of name and address information of victims of domestic violence in the records of State and local government agencies.

(b) The provisions of this chapter shall be applicable to victims of domestic violence and/or individuals who are certified by the Commissioner of the Department of Community Affairs as eligible to participate in the Address Confidentiality Program (ACP) and State and local government agencies or nonprofit agencies authorized to assist program participants with ACP applications.

SUBCHAPTER 2. DEFINITIONS

N.J.A.C. 5:61-2.1 (2014)

§ 5:61-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"ACP" means Address Confidentiality Program.

"Address" means a residential street address, school address, or work address of a person.

"Agency" means an office, department, division, bureau, board, commission or other statutory unit of State or local government or any functional subdivision of that agency.

"Application assistant" means an employee of a State or local government agency, or of a nonprofit program that provides counseling, referral or shelter services to victims of domestic violence, who meets the minimum training requirements of 40 hours of domestic violence training and is designated by the agency, and accepted and registered by the Commissioner to assist individuals in the completion of program participation applications.

"Authorized personnel" means an employee of a State or local government agency designated by the Chief Executive Officer of the agency, to process and have access to applications and records, pertaining to program participants.

"Commissioner" means the Commissioner of the Department of Community Affairs or his or her designee.

"Department" means the Department of Community Affairs.

"Domestic violence" means an act defined under N.J.S.A. 2C:25-19, which has been reported to a law enforcement agency or court.

"Program manager" means the agency employee designated by the Commissioner with responsibility for developing and administering the Address Confidentiality Program in accordance with the provisions of N.J.S.A. 47:4-1 et seq.

"Program participant" means a person and his or her minor children who meet the requirements for admission to the Address Confidentiality Program and are certified by the Commissioner and/or her or his designee as eligible to participate in the Address Confidentiality Program.

"Provider agency" means an agency from which a program participant is applying for or receiving services.

"Public record" means any paper, written or printed book, document or drawing, map or plan, photograph, microfilm, data processed document, sound-recording or similar device, of any copy thereof which has been made or is required by law to be received for filing, indexing or reproducing by any officer, commission, agency, or authority of the State or of any political subdivision thereof including subordinate boards thereof, or that has been received by any such officer, commission, agency or authority of the State or of any political subdivision thereof, including subordinate boards thereof, in connection with the transaction of public business and has been retained by such recipient or successor as evidence of its activities or because of the information contained therein.

"Substitute mailing address" means a mailing address designated by the Commissioner, which is not the program participant's residential address as documented on his or her application but is an alternative address to which mail is to be mailed.

SUBCHAPTER 3. APPLICATION AND CERTIFICATION PROCESS

N.J.A.C. 5:61-3.1 (2014)

§ 5:61-3.1 Requirements for participation in ACP

(a) All applicants for participation in ACP must be 18 years of age or over, an emancipated minor, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person.

(b) All applicants shall complete a standard application form and an authorization form, which may be obtained from a local domestic violence program. Information about how to contact the local domestic violence programs can be obtained by contacting the New Jersey Address Confidentiality Program at 1-877-218-9133.

1. The standard application form shall require the provision of the following:

- i. The applicant's name;
- ii. The names and ages of minor children who will participate in the program;

iii. A statement that an act or acts of domestic violence has been reported to a law enforcement agency and/or court;

iv. The application assistant's name (printed), signature and agency;

v. The applicant's statement that the applicant fears further violent acts from the batterer and that the applicant has relocated to a location unknown to the batterer;

vi. The applicant's new residential address, mailing address (if different from the residential address), work address, and/or school address and telephone numbers for which confidentiality is being requested;

vii. The name(s), address(es), and telephone number(s) of a contact person(s) through whom the ACP may reach, or with whom the program manager may leave a message for, the applicant;

viii. The applicant's designation of the Commissioner as her or his agent for service of process and for receipt of mail;

ix. The applicant's birth date;

x. The applicant's signature; and

xi. The application date.

2. The authorization card form shall require the provision of the following:

i. The applicant's name;

ii. The applicant's birth date;

iii. The applicant's signature; and

iv. The application date.

3. An application shall be deemed filed on the day that it is received by the program manager.

N.J.A.C. 5:61-3.2 (2014)

§ 5:61-3.2 Certification

(a) An applicant who has filed a completed application form shall be certified as a program participant and issue an ACP program participant identification card ("identification card") which shall contain the program participant's name, authorization code, substitute mailing address, certification expiration date, birth date, and signature, and the signature of the Commissioner or his or her designee.

(b) A program participant's certification shall be valid for four years following the date her or his identification card is issued unless the certification is withdrawn, terminated or invalidated before that date, in accordance with N.J.A.C. 5:61-5.

(c) Program participants shall provide the program manager with notice of any change in name or address at least seven days prior to the effective date of the change in order to maintain his or her certification.

(d) A program participant may apply for recertification every four years in accordance with N.J.A.C. 5:61-4.

SUBCHAPTER 4. RECERTIFICATION

N.J.A.C. 5:61-4.1 (2014)

§ 5:61-4.1 Requirements for recertification

(a) A program participant may renew his or her program participation certification by filing a certification renewal application form and a new authorization card form with the ACP.

(b) The certification renewal application form shall require the provision of the following:

1. The applicant's name;
2. The applicant's statement that the applicant fears further violent acts from the batterer and that the applicant has relocated to a location unknown to the batterer;

3. The applicant's new residential address, mailing address, if different from the residential address, work address, and/or school address, for which confidentiality is being requested;

4. The name(s), address(es), and telephone number(s) of a contact person(s) through whom the ACP may reach, or with whom the program manager may leave a message for, the applicant;

5. The applicant's designation of the Commissioner as her or his agent for service of process and for receipt of mail;

6. The applicant's birth date;

7. The applicant's signature; and

8. The certification renewal application date.

N.J.A.C. 5:61-4.2 (2014)

§ 5:61-4.2 Recertification

(a) Upon the program manager's receipt of the completed certification renewal application form and the new authorization card form, the program manager shall:

1. Certify the program participant for an additional four-year term unless the certification is withdrawn, terminated or invalidated before the date of expiration of the four-year term, in accordance with N.J.A.C. 5:61-5; and
2. Issue to the program participant a new identification card.

N.J.A.C. 5:61-4.3 (2014)

§ 5:61-4.3 Notice of recertification to provider agencies

When a program participant's certification has been renewed, he or she shall provide written notification of the certification renewal to authorized personnel of provider agencies.

SUBCHAPTER 5. CERTIFICATION WITHDRAWAL, INVALIDATION,
EXPIRATION AND TERMINATION

N.J.A.C. 5:61-5.1 (2014)

§ 5:61-5.1 Withdrawal

A program participant may withdraw from the ACP by submitting written notification of withdrawal and her or his current identification card to the program manager. Certification shall be withdrawn on the date of the program manager's receipt of this notification.

N.J.A.C. 5:61-5.2 (2014)

§ 5:61-5.2 Termination

(a) The program manager may terminate a program participant's certification and invalidate her or his authorization card if:

1. The program participant obtains a name change through an order of the court;

2. Any information provided by the program participant on his or her application is false;

3. The program participant no longer resides at the residential address listed on the application and has not provided written notice of the change of address at least seven days prior to the change as required by N.J.A.C. 5:61-3.2(d); or

4. A service of process document or mail forwarded to the program participant by the ACP is returned as non-deliverable and the program participant cannot be located.

(b) The program manager shall notify the program participant that she or he has been terminated from the ACP by a method most likely to result in contact with the program participant. Such methods may include, but shall not be limited to, telephone contact with the program participant or telephone and/or mail contact with the program participant's designated contact person.

(c) A program participant whose certification has been terminated or invalidated shall have 20 business days in which to appeal the termination, in accordance with N.J.A.C. 5:61-6.

(d) Following termination of a program participant's certification, the program manager may disclose information contained in the program participant's application.

N.J.A.C. 5:61-5.3 (2014)

§ 5:61-5.3 Notice to State and/or local government agency

The program manager shall provide written notification of the program participant's certification withdrawal, invalidation, expiration or termination to authorized personnel of the appropriate provider agencies within 30 days unless an appeal is received in accordance with N.J.A.C. 5:61-6.

SUBCHAPTER 6. APPEAL OF CERTIFICATION TERMINATION

N.J.A.C. 5:61-6.1 (2014)

§ 5:61-6.1 Filing procedures

(a) A program participant may appeal her or his termination from the ACP by submitting a written explanation disputing the grounds for termination to the Commissioner within 20 business days of receipt of notice of termination from the program. The written explanation shall be accompanied by all information and documentation which supports the appeal.

(b) A copy of the appeal and supporting information and documentation shall be served on the program manager at the time they are submitted to the Commissioner.

N.J.A.C. 5:61-6.2 (2014)

§ 5:61-6.2 Program manager response

Upon receipt of the program participant's appeal and supporting documentation, the program manager shall provide the Commissioner with a written explanation of the grounds for termination within five days. The explanation shall include all information and/or documentation which is relevant to the termination and the Commissioner's consideration of the appeal.

N.J.A.C. 5:61-6.3 (2014)

§ 5:61-6.3 Commissioner's decision

(a) The Commissioner or her or his designee shall review all submissions and render a decision based on the written record within 20 business days receipt of the appeal.

(b) The Commissioner's decision shall be final.

(c) Where the Commissioner has upheld the certification termination, the program participant will be permitted to remain in the program for 10 business days after notification of the Commissioner's decision has been received.

SUBCHAPTER 7. PROGRAM PARTICIPANT PRIVILEGES

N.J.A.C. 5:61-7.1 (2014)

§ 5:61-7.1 Request for confidentiality

(a) A program participant may request that a provider agency use the substitute address as her or his residence, work and/or school address when it creates a new record or updates an existing record.

(b) A program participant may request that her or his name and address information be kept confidential.

(c) A program participant requesting that her or his name and address be kept confidential shall show her or his identification card to provider agency

personnel in order to verify that she or he is a program participant and to require the provider agency's use of the designated address noted in lieu of her or his actual location.

N.J.A.C. 5:61-7.2 (2014)

§ 5:61-7.2 Provider agency requirements

(a) When a program participant makes a request noted in N.J.A.C. 5:61-7.1(a) or (b), the provider agency shall maintain the confidentiality of all applications or records and ensure that they are accessible only to authorized personnel, except as provided in N.J.A.C. 5:61-8 and 9.

(b) When verifying that an individual is an ACP program participant, authorized personnel may make a file photocopy of the program participant's identification card.

1. The identification card shall be returned to the program participant immediately upon completion of the photocopying; and

2. The photocopy shall be kept with the confidential records of the program participant during the time the records are filed and maintained by the provider agency.

(c) A provider agency shall use the designated mailing address requested by the program participant and verified by the ACP identification card unless the provider agency has received a written exemption determination from the Commissioner under the provisions of N.J.A.C. 5:61-10.

SUBCHAPTER 8. DISCLOSURE OF INFORMATION

N.J.A.C. 5:61-8.1 (2014)

§ 5:61-8.1 Disclosure

No record or related information maintained under the ACP shall be disclosed by the program manager or provider agencies without the expressed written authorization of the program participant or by court order unless release of the record or information is otherwise provided for by this chapter.

**SUBCHAPTER 9. INFORMATION RELEASE TO LAW ENFORCEMENT
AGENCIES OR UPON COURT ORDER**

N.J.A.C. 5:61-9.1 (2014)

§ 5:61-9.1 Release to law enforcement agencies generally

(a) An application, record or other information about a program participant may be released to a law enforcement agency if:

1. The program participant gives her or his written authorization;
2. A court order is in effect; or
3. The law enforcement agency making the request has a bona fide statutory or administrative requirement to have access to a program participant's actual address which meets the requirements of N.J.A.C. 5:61-9.2.

§ 5:61-9.2 Requests for release of records to law enforcement agencies

(a) A request for the release of an application, record or other information concerning a program participant to a law enforcement agency may be honored only if the law enforcement agency submits by mail, a written request on official letterhead to the Commissioner or his or her designee at ACP, PO Box 207, Trenton, NJ 08602-0207, which contains:

1. The signature of the agency's chief law enforcement officer;
2. The date of the request;
3. The name of the program participant; and
4. The reason or purpose for which the information is requested and its relation to the official duties or responsibilities of the law enforcement agency.

N.J.A.C. 5:61-9.3 (2014)

§ 5:61-9.3 Emergency release of records

The program manager may disclose an application, record or other information about a program participant to a law enforcement agency if she or he determines that an emergency situation exists and that the safety or health of a program participant is imperiled by withholding this information.

N.J.A.C. 5:61-9.4 (2014)

§ 5:61-9.4 Notice of release to program participant

Unless specifically prohibited by court order, the program manager shall immediately notify the program participant of any disclosure of information made under this subchapter and shall provide the program participant with a copy of the information disclosure request.

N.J.A.C. 5:61-9.5 (2014)

§ 5:61-9.5 Confidentiality of records released

Program participant information disclosed to a law enforcement agency or to a person identified in a court order shall be maintained in strict confidence by the party receiving the information.

SUBCHAPTER 10.
AGENCY EXEMPTION REQUESTS

N.J.A.C. 5:61-10.1 (2014)

§ 5:61-10.1 Requirements of request for exemption

(a) A provider agency requesting an exemption from the provisions of this chapter shall provide a written request to the Commissioner which includes the following:

1. Identification of the statute or administrative rule which demonstrates the provider agency's bona fide requirement and authority for the use of the actual address of an individual;

2. Identification of the specific record for which the exemption is requested;

3. A description of the specific record or record series;

4. Identification of the individuals who will have access to the record;

5. An explanation of how the provider agency's acceptance of a substitute address will prevent the agency from meeting its obligations under the statute or rule identified in (a)1 above; and

6. An explanation of why the provider agency cannot meet its statutory or administrative obligations by a change in its internal procedures.

N.J.A.C. 5:61-10.2 (2014)

§ 5:61-10.2 Exemption determination

(a) The Commissioner's decision to grant or withhold a requested exemption shall be based on, but not limited to, an evaluation of the information provided under N.J.A.C. 5:61-10.1. The decision shall be rendered within 20 days receipt of the provider agency's request for exemption.

(b) If the Commissioner determines that a provider agency has a bona fide statutory or administrative requirement for the use of a program participant's actual address information and that the actual address information will be used only for those statutory and administrative purposes, the Commissioner may issue a written exemption determination to the provider agency.

(c) A decision granting the request for exemption shall include:

1. A statement as to the provider agency's obligation to maintain the confidentiality of a program participant's address information;
2. Limitations on use and access to that address information;

3. The term during which the exemption is authorized for the provider agency where the provider agency is making procedural changes that would allow it to accept the substitute address;

4. Designation of the record format on which the address information may be maintained; and

5. Designation of an address information disposition date after which the provider agency may no longer maintain a record of the address information.

(d) A Commissioner's denial of a provider agency's exemption request shall be made in writing and include a statement of the specific reasons for the denial.

(e) When a program participant requests use of the substitute address in a record, and the provider agency has received an exemption determination for that record, the provider agency shall immediately provide a copy of the Commissioner's written decision to the program participant. The provider agency shall notify the program manager of the applicant's request for use of the substitute address and its decision to deny the request.

N.J.A.C. 5:61-10.3 (2014)

§ 5:61-10.3 Appeal of denial of request for exemption

(a) A provider agency may appeal the denial of its request for exemption by providing additional data and information evidencing the steps that have been or are being taken to resolve the basis for the Commissioner's denial determination.

(b) During the review, evaluation and appeal of a provider agency's exemption request, the provider agency shall accept the use of a program participant's substitute address.

SUBCHAPTER 11.
PROTECTED VOTER RECORDS

N.J.A.C. 5:61-11.1 (2014)

§ 5:61-11.1 Confidentiality of voter records information

All information related to voter records of program participants shall be confidential and shall not be released without the program participant's expressed written authorization, except as otherwise provided in N.J.S.A. 47:4-1 et seq.

N.J.A.C. 5:61-11.2 (2014)

§ 5:61-11.2 Processing of protected voter records

Voter records of program participants shall be processed in accordance with procedures adopted by the county elections superintendent that ensure the confidentiality of the names and addresses of victims of domestic violence.

-End-